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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,118

Applicant(s)

MILLER ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/24/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on April 18, 2005.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the actuator arm including a key lock receptor and the locking arm having a key lock, as claimed in claims 14 and 40, must be shown or the feature(s) canceled from the claim(s). The current drawings only illustrates the actuator arm the key lock and the locking arm including the key lock receptor. No new matter should be entered.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:
 - Element 56 is not illustrated in the drawings.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing

sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. **Claim 22 is objected** to because of the following informalities:

- Claim 22 line 2, change "said aperture" to -an aperture-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. **Claims 9-54 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9 and 29 recites the limitation "a housing including a support wall extending across the center of the housing" (claim 9 line 6 and claim 29 line 10). Also, claims 22 and 48 recites that the support wall is between the aperture and the cam latch.

As seen in the drawings, the support walls (46 and 50) do not extends across the center of the housing (Figure 3A). According to Figure 3A, the supports walls 46 and 50 extends across the housing from one end to an opposite end. It is impossible that

the support walls extend across the center of the housing since the cam latch 30 is located in the center of the housing (Figure 3A).

Therefore, in order to continue with the examination, the limitation will be examined as "a housing including a support wall extending across the housing". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 9-14,17-32,36-40, and 43-54 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,741,032 to Chaput.

Regarding claims 9 and 22, Chaput discloses a window latch comprising a cam latch (11); a housing (12) including a support wall (23 and 25) extending across the housing; and a pivot fastener (13 and 31) for attaching the cam latch to the housing.

The cam latch is selectively movable between a first open position and a second locked position to secure the window sash in the closed position.

As to claims 10 and 36, Chaput discloses that the cam latch includes an actuator arm (13), a locking arm (body of 11) and a pivot point (through 31) between the actuator arm and the locking arm.

As to claims 11 and 37, Chaput discloses that the window latch further includes a finger tab (end portion of 11) on the actuator arm.

As to claims 12 and 38, Chaput illustrates that the locking arm further includes a cam wall.

As to claims 13 and 39, Chaput illustrates that the ratio of the length of the actuator arm to the length of the locking arm is greater than about 2 to provide a mechanical advantage when the window latch is operated (see Figures 1-5).

As to claims 14 and 40, Chaput discloses that one of the actuator arm and the locking arm includes a key lock receptor (27) and the other of the actuator arm and the locking arm including a complementary key lock (31) extending into the key lock receptor for attaching the cam latch to the housing.

As to claims 17 and 43, Chaput discloses that one of the key lock and the key lock receptor further includes an alignment feature and the other of the key lock and the key lock receptor further includes a mating alignment feature (27 and 33).

As to claims 18 and 44, Chaput illustrates that the housing extends beyond the pivot fastener parallel to the window frame and includes an aperture (38 and 41) for receiving a fastener for attaching the housing to the window.

As to claims 19 and 45, Chaput discloses that the aperture for receiving a fastener includes a retainer (the retainer can be the top edge of the apertures 38 and 41) for receiving a fastener.

As to claims 20 and 46, Chaput discloses that the base of the aperture for receiving a fastener includes a cavity (space under 38 and 41) for receiving shavings formed by attaching the window latch to the window.

As to claims 21 and 47, Chaput illustrates that the housing extends beyond the pivot fastener parallel to the window frame to include a finger shoulder for providing access to the cam latch.

As to claims 23 and 49, Chaput illustrates that the support wall is substantially perpendicular to the window frame.

As to claims 24 and 50, Chaput discloses that the window latch further comprises a locking arm catch (14).

As to claims 25 and 51, Chaput discloses that the window latch further includes a cam detent (22 and 24) for engaging the locking arm.

As to claims 26,27,52 and 53, Chaput discloses that the window latch further includes an aperture (43 and 44) for receiving a fastener for attaching the locking arm catch to the window.

As to claims 28 and 54, Chaput discloses that the pivot fastener is substantially non-compressible so as to facilitate the selective movement of said cam latch between the first open position and the second locked position.

As to claims 29 and 48, Chaput further discloses that the window latch further includes a cam detent (22 and 24) for retaining the cam latch in one of the open or closed positions.

As to claim 30, Chaput discloses that the detent provides an audible indication of the cam latch being in one of the open and the locked positions (because of the snap connection between 21 with 22 or 24).

As to claims 31 and 32, Chaput discloses that the detent includes at least one protrusion on one of the housing and the cam latch and a receiving groove on the other of the housing and the cam latch (21,22 and 24). The protrusion and the groove are substantially parallel to the axis of the pivot fastener.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 9-14,17-33,36-40, and 43-54 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,801,164 to Mosch in view of US Pat No 5,741,032 to Chaput.

Regarding claims 9 and 22, Mosch discloses a window latch comprising a cam latch (30 and 36); a housing (10); and a pivot fastener (31,32 and 42) for attaching the cam latch to the housing. The cam latch is selectively movable between a first open position and a second locked position to secure the window sash in the closed position.

However, Mosch fails to disclose supporting walls that engage the surface of the window sash.

Chaput teaches that it is well known in the art to have support walls (23 and 25) extending across the housing that engage a surface of a window sash.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate into the device described by Mosch supporting walls capable of engaging a surface of the window sash, as taught by Chaput, in order to provide support to the housing structure.

As to claims 10 and 36, Mosch discloses that the cam latch includes an actuator arm (30), a locking arm (body of 36) and a pivot point (through 31) between the actuator arm and the locking arm.

As to claims 11 and 37, Mosch discloses that the window latch further includes a finger tab (end portion of 30) on the actuator arm.

As to claims 12 and 38, Mosch illustrates that the locking arm further includes a cam wall (50).

As to claims 13 and 39, Mosch illustrates that the ratio of the length of the actuator arm to the length of the locking arm is greater than about 2 to provide a mechanical advantage when the window latch is operated (see Figure 4).

As to claims 14 and 40, Mosch discloses that one of the actuator arm and the locking arm includes a key lock receptor (55) and the other of the actuator arm and the locking arm including a complementary key lock (69) extending into the key lock receptor for attaching the cam latch to the housing.

As to claims 17 and 43, Mosch discloses that one of the key lock and the key lock receptor further includes an alignment feature and the other of the key lock and the key lock receptor further includes a mating alignment feature (32,33 and 55).

As to claims 18 and 44, Mosch illustrates that the housing extends beyond the pivot fastener parallel to the window frame (Figure 3) and includes an aperture (14 and 15) for receiving a fastener for attaching the housing to the window.

As to claims 19 and 45, Mosch discloses that the aperture for receiving a fastener includes a retainer (the retainer can be the top edge of the apertures 14 and 15) for receiving a fastener.

As to claims 20 and 46, Mosch discloses that the base of the aperture for receiving a fastener includes a cavity (space under 14 and 15) for receiving shavings formed by attaching the window latch to the window.

As to claims 21 and 47, Mosch illustrates that the housing extends beyond the pivot fastener parallel to the window frame to include a finger shoulder for providing access to the cam latch.

As to claims 23 and 49, Mosch illustrates that the support wall is substantially perpendicular to the window frame.

As to claims 24 and 50, Mosch discloses that the window latch further comprises a locking arm catch (12).

As to claims 25 and 51, Mosch discloses that the window latch further includes a cam detent (53) for engaging the locking arm.

As to claims 26,27,52 and 53, Mosch discloses that the window latch further includes an aperture (16 and 17) for receiving a fastener for attaching the locking arm catch to the window.

As to claims 28 and 54, Mosch discloses that the pivot fastener is substantially non-compressible so as to facilitate the selective movement of said cam latch between the first open position and the second locked position.

As to claims 29 and 48, Mosch fails to disclose that the window latch further includes a detent for retaining the cam latch in one of the open or closed positions.

Chaput teaches that it is well known in the art to have a window latch that further includes a cam detent (22 and 24) for retaining the cam latch in one of the open or closed positions.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the window latch of Mosch with a cam detent, as taught by Chaput, in order to retain the cam latch in one of the open or closed positions.

As to claim 30, Chaput teaches that the detent provides an audible indication of the cam latch being in one of the open and the locked positions (because of the snap connection between 21 with 22 or 24).

As to claims 31 and 32, Chaput teaches that the detent includes at least one protrusion on one of the housing and the cam latch and a receiving groove on the other of the housing and the cam latch (21,22 and 24). The protrusion and the groove are substantially parallel to the axis of the pivot fastener.

As to claim 33, Mosch discloses that the window latch further includes a bushing (35) adapted for use with the pivot fastener.

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11. Claims 15,16,41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,741,032 to Chaput as applied to claim 14 above, and further in view of US Pat No 6,568,723 to Murphy et al (Murphy).

Chaput fails to disclose the use of a fastener extending into the key lock and key lock receptor.

Murphy teaches that it is well known in the art to secure a key lock (38) into a key lock receptor (32) using a fastener (Figure 2b).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Chaput device with a fastener, as taught by Murphy, in order to secure the members.

12. Claims 15,16,41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,801,164 to Mosch in view of US Pat No 5,741,032 to Chaput as applied to claim 14 above, and further in view of US Pat No 6,568,723 to Murphy et al (Murphy).

Mosch, as modified by Chaput, fails to disclose the use of a fastener extending into the key lock and key lock receptor. Mosch discloses the use of a pin (31).

Murphy teaches that it is well known in the art to secure a key lock (38) into a key lock receptor (32) using a threaded fastener (Figure 2b).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Mosch device, as modified by Chaput, with a fastener, as taught by Murphy, in order to secure the members.

Allowable Subject Matter

13. **Claim 34 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Claim 35 would also be allowed because the claim depends from claim 34.

Reasons For Allowable Subject Matter

14. The following is an examiner's statement of reasons for allowable subject matter:

Claim 34 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the detent includes at least one protrusion on one of the housing and the bushing and a receiving groove on the other of the housing and the bushing.

Mosch discloses the use of a bushing, however, Mosch fails to disclose the connection between the housing and the bushing by means of protrusion/grooves engagement.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.
Carlos Lugo
AU 3676

June 14, 2005



**BRIAN E. GLESSNER
PRIMARY EXAMINER**